In the High Court of Uttaranchal, at Nainital.

W.P. No. 297/2003 (S/S)

Tara Chandra Kandpal
S/o Late Bachi Ram Kandpal,
R/o Shivpuri, Jawahar Jyoti (Damwadhunga)
P.O. Kathgodam, District Nainital … Petitioner.

Versus

State of Uttaranchal and 4 others ……..Respondents.

Sri B.S. Adhikari, learned counsel for the petitioner.
Learned S.C. for the State.

Coram: Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal, J.

Dated: 03-03-2006

The present writ petition has been preferred with the prayer to issue a writ, order or direction in the nature of certiorari quashing the impugned orders dated 31-8-1995(Annexure-6 to the writ petition) passed by S.S.P. Nainital, Appellate order dated 20-3-98 (Annexure-8) and the order dated 30-4-2003 (Annexue-1) passed by the Tribunal.

2- Brief facts giving rise to the petition are that the petitioner was in police services for about 12 years and during his whole service tenure not a single adverse entry is there in his service record. According to the petitioner when he was working as Head Constable in District Nainital, a complaint was lodged by Km.. Pushpa Tiwari against him on 4-3-93 at P.S. Tallital, Nainital with the allegation that when she was going to Kathgodam from Nainital, Bus Station, a person who was drunk came near to her and misbehaved and abused her and on her information two police personnel who were deputed there, they caught the petitioner and at the Police Station the petitioner was identified as Tara Chand.. Charge sheet was submitted against the petitioner by S.P. Haldwani. Therefore, departmental proceedings U/s 7 of the Police Act were initiated against the petitioner by S.P. Haldwani. In the department proceedings the recommendation for dismissal of the

petitioner was made to the S.S.P. Nainital, who confirmed the same vide its order dated 31-8-95. The petitioner moved an appeal before the D.I.G. Kumaun Division, Nainital against order of S.S.P. Nainital dated 31-8-1995, which was rejected by the appellate authority on 25-10-97. Against the appellate order of D.I.G. Nainital, the petitioner preferred a revision before the Inspector General of Police which was also rejected on 20-3-98.. The petitioner thereafter filed a claim petition before the U.P. Public Service Tribunal, who also dismissed the same on the ground of limitation.

3- We have heard the learned counsel for the parties and perused the entire evidence on record.

4- The petition filed by the petitioner before the Public Service Tribunal was beyond limitation and it was not admitted for hearing by the Tribunal. Keeping in view the facts and circumstances of the case and in the interest of justices we feel it proper and justified that the petition may be heard and decided by the Tribunal afresh.

5- Therefore, we set aside the order dated 30-4-2003, passed by the Public Service Tribunal and condone the delay in filing the petition before the Public Service Tribunal. The Tribunal shall dispose of the petition of the petitioner afresh within a period of three months from the date of production of certified copy of this order in accordance with law.

5- With the aforesaid direction, the writ petition is disposed of finally.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

Aswal.